

AMENDED IN ASSEMBLY JULY 16, 2009

SENATE BILL

No. 90

**Introduced by ~~Committee on Budget and Fiscal Review~~ Senator
Ducheny**

January 20, 2009

An act relating to the ~~Budget Act of 2009~~. An act to amend and augment the Budget Act of 2007 (Chapters 171 and 172 of the Statutes of 2007) by amending Items 5225-001-0001 and 5225-002-0001 of, and augmenting Item 9840-001-0001 of, Section 2.00 of that act, and to augment the Budget Act of 2008 (Chapters 268 and 269 of the Statutes of 2008) by augmenting Item 9840-001-0001 of Section 2.00 of that act, relating to the State Budget, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 90, as amended, ~~Committee on Budget and Fiscal Review~~ Ducheny. ~~Budget Act Acts of 2009~~ 2007 and 2008: augmentation.

The Budget Acts of 2007 and 2008 appropriated specified amounts from the General Fund for specified programs.

This bill would express the intent of the Legislature to enact statutory changes relating to the ~~Budget Act of 2009~~ appropriate \$135,064,000 from the General Fund in augmentation of appropriations in the Budget Act of 2007 and would authorize the Director of Finance to transfer specified amounts between items of appropriation in that Budget Act. The bill also would appropriate \$510,125,000 from the General Fund in augmentation of appropriations in the Budget Act of 2008. The bill additionally would require California Prison Health Care Services to

report to the Legislature in 2009 and 2010 on actions to reduce and better manage medical service contract costs.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
2 ~~changes relating to the Budget Act of 2009.~~

3 *SECTION 1. The sum of one hundred thirty-five million*
4 *sixty-four thousand dollars (\$135,064,000) is hereby appropriated*
5 *from the General Fund for expenditure for the 2007–08 fiscal year*
6 *in augmentation of Item 9840-001-0001 of Section 2.00 of the*
7 *Budget Act of 2007 (Chapters 171 and 172 of the Statutes of 2007).*
8 *Notwithstanding Provision 7 of Item 9840-001-0001, these funds*
9 *shall be allocated by the Controller in accordance with the*
10 *following schedule:*

11 *(a) Six million three hundred fifty-eight thousand dollars*
12 *(\$6,358,000) to Item 5225-001-0001, scheduled as follows:*

13 *(1) Six million one hundred eighty thousand dollars (\$6,180,000)*
14 *to Schedule (1) 10-Corrections and Rehabilitation Administration.*

15 *(2) One hundred seventy-eight thousand dollars (\$178,000) to*
16 *Schedule (8) 25Adult Corrections and Rehabilitation Operations.*

17 *(b) One hundred twenty-eight million seven hundred six*
18 *thousand dollars (\$128,706,000) to Item 5225-002-0001, scheduled*
19 *as follows:*

20 *(1) Eighty-two million eight hundred sixty-eight thousand dollars*
21 *(\$82,868,000) to Schedule (1.5) 25-Adult Corrections and*
22 *Rehabilitation Operations.*

23 *(2) Forty-five million eight hundred thirty-eight thousand dollars*
24 *(\$45,838,000) to Schedule (4.4) 50.40-Ancillary Health Care*
25 *Services—Adult.*

26 *SEC. 2. Any unencumbered balance, as of June 30, 2008, of*
27 *the funds appropriated within any of the items identified in Section*
28 *1 shall revert to the General Fund.*

29 *SEC. 3. Item 5225-001-0001 of Section 2.00 of the Budget Act*
30 *of 2007 is amended to read:*

1	5225-001-0001—For support of Department of Corrections	
2	and Rehabilitation.....	6,958,609,000
3	Schedule:	
4	(1) 10-Corrections and Rehabilitation Ad-	
5	ministration.....	369,580,000
6	(3) 15-Corrections Standards Authority.....	11,779,000
7	(4) 20-Juvenile Operations.....	181,168,300
8	(5) 21-Juvenile Education, Vocations, and	
9	Offender Programs.....	143,930,150
10	(6) 22-Juvenile Paroles.....	33,940,000
11	(7) 23-Juvenile Health Care.....	115,945,550
12	(8) 25-Adult Corrections and Rehabilita-	
13	tion Operations.....	4,892,480,000
14	(9) 30-Parole Operations—Adult.....	792,883,000
15	(10) 35-Board of Parole Hearings.....	110,782,000
16	(11) 40-Community Partnerships.....	12,297,000
17	(12) 45-Education, Vocations and Offender	
18	Programs—Adult.....	463,618,000
19	(13) Reimbursements.....	–94,598,000
20	(14) Amount payable from the Corrections	
21	Training Fund (Item 5225-001-0170)....	–2,626,000
22	(15) Amount payable from the Federal Trust	
23	Fund (Item 5225-001-0890).....	–5,883,000
24	(16) Amount payable from the Inmate	
25	Welfare Fund (Item 5225-001-	
26	0917).....	–66,687,000
27	Provisions:	
28	1. Any funds recovered as a result of audits of locally	
29	operated return-to-custody centers shall revert to the	
30	General Fund.	
31	2. When contracting with counties for vacant jail beds	
32	for any inmate under the jurisdiction of the Secretary	
33	of the Department of Corrections and Rehabilitation,	
34	the department shall not reimburse counties more than	
35	the average amount it costs the state to provide the	
36	same services in comparable state institutions. This	
37	restriction shall not apply to any existing contract, but	
38	shall apply to the extension or renewal of that contract.	
39	In addition, the total operational cost of incarcerating	
40	state inmates in leased county jail beds (which includes	

1 state costs, but is exclusive of one-time and capital
2 outlay costs) shall not exceed the department's average
3 cost for operating comparable institutions.

- 4 3. Notwithstanding any other provision of law, but sub-
5 ject to providing 30 days' prior notification to the Joint
6 Legislative Budget Committee, funds appropriated in
7 Schedule (8) or (9), or both, may be transferred to Item
8 5225-101-0001, Schedule (7), upon order of the Direc-
9 tor of Finance, to provide funds for the reimbursement
10 of counties for the cost of holding parole violators in
11 local jail.

- 12 4. Not later than 60 days following enactment of this act,
13 and subsequently on February 10 and upon release of
14 the May Revision, the Secretary of the Department of
15 Corrections and Rehabilitation shall submit to the Di-
16 rector of Finance the Post Assignment Schedule for
17 each adult institution, reconciled to budgeted authority
18 and consistent with approved programs, along with
19 allotments consistent with the reconciled Post Assign-
20 ment Schedule for each adult institution.

- 21 5. Not later than February 17, 2008, the Secretary of the
22 Department of Corrections and Rehabilitation shall
23 submit to the chairpersons and vice chairpersons of
24 the committees in both houses of the Legislature that
25 consider the State Budget and to the Legislative Ana-
26 lyst's Office an operating budget for each of the cor-
27 rectional facilities under the control of the department.
28 Specifically, the report shall include: ~~year-end~~ *yearend*
29 expenditures by program for each institution in the
30 2006-07 fiscal year, (b) allotments and projected ex-
31 penditures by program for each institution in the
32 2007-08 fiscal year, (c) the number of authorized and
33 vacant positions, estimated overtime budget, estimated
34 benefits budget, and operating expense and equipment
35 budget for each institution, and (d) a list of all capital
36 outlay projects occurring or projected to occur during
37 the 2007-08 fiscal year.

- 38 6. Funds appropriated to accommodate projected adult
39 institutional and parolee population levels in excess

of those that actually materialize, if any, shall revert to the General Fund.

7. Of the amount appropriated in this item, \$114,058,000 is available for the Consolidated Information Technology Infrastructure Project. Upon determination of the project costs that can be financed using GS \$mart, any balance in excess of the amounts needed for 2007–08 payments shall revert to the General Fund upon order of the Director of Finance. Up to \$86,045,000 may be reverted.

9. The Department of Corrections and Rehabilitation (DCR) shall consult with legislative staff and the Department of Finance (DOF) to define what is and is not allowable in the annual population budget requests, and to reformat the document to make it more transparent to ensure appropriate legislative oversight. The DCR and the DOF shall present an example of the reformed population document to the Legislature prior to the time for deliberations on the Governor’s Budget for the 2008–09 fiscal year.

10. In implementing the Consolidated Information Technology Infrastructure Project (CITIP), the ~~department~~ *Department of Corrections and Rehabilitation* shall, when possible, give first priority to data drops for business services and rehabilitative programming.

12. The ~~department~~ *Department of Corrections and Rehabilitation* shall study the programmatic and fiscal feasibility of providing for rehabilitation information and tracking functionality within the Strategic Offender Management System (SOMS) by either including these requirements as optional in the SOMS Request for Proposal or by including these requirements in the design of a separate system that will communicate and be used in collaboration with SOMS once both systems have been implemented. Additionally, the department shall study the programmatic and fiscal implications of building SOMS to most easily integrate with the systems being implemented by the receiver in the Plata litigation as opposed to building SOMS with differing parameters but much higher future system

1 integration costs. The department shall, in all future
2 cost estimates, include a section detailing future system
3 integration costs, justifying the proposed system design
4 with respect to future integration costs, and specifying
5 why alternate system implementation options with
6 lower future integration costs are unsuitable for system
7 design.

- 8 13. Of the funds appropriated in this item, \$600,000 is al-
9 located to the State Commission on Juvenile Justice,
10 pursuant to Section 1798.5 of the Welfare and Institu-
11 tions Code, to develop a Juvenile Justice Operational
12 Master Plan. The commission shall use a portion of
13 these moneys to contract with a national expert or na-
14 tional experts from the Farrell expert panel to develop
15 this plan in conjunction with local government. This
16 plan shall also address facility and infrastructure issues
17 throughout the juvenile justice continuum.

- 18 16. Of the funds appropriated in this item, \$673,865,000
19 is available for expenditure only for the purposes
20 identified below. Any unexpended funds shall revert
21 to the General Fund.

- 22 (a) Facility Maintenance Funding: \$36,000,000
23 (b) Coleman v. Schwarzenegger, Administrative
24 Segregation Unit Mental Health Cells Modifica-
25 tion: \$3,550,000
26 (c) Coleman v. Schwarzenegger, Administrative
27 Segregation Intake Cells: \$13,203,000
28 (d) Coleman v. Schwarzenegger, Salary Enhance-
29 ments: \$13,108,000
30 (e) Plata v. Schwarzenegger, Salary Enhancements:
31 \$1,521,000
32 (f) Coleman v. Schwarzenegger, CMF Acute Cells
33 Modification: \$1,075,000
34 (g) Coleman v. Schwarzenegger, Reception Center
35 Enhanced Outpatient Program: \$2,916,000
36 (h) Perez v. Tilton, Comprehensive Inmate Dental
37 Services Program: \$8,477,000
38 (i) Farrell v. Tilton, Safety and Welfare Remedial
39 Plan: \$66,747,000

- 1 (j) Farrell v. Tilton, Mental Health Remedial Plan:
2 \$25,090,000
- 3 (k) Implementation of Revised Program Guide for
4 Mental Health Services Delivery System (Ch.
5 511, Stats. 2006): \$8,706,000
- 6 (l) Sex Offender Management Funding:
7 \$113,327,000
- 8 (m) Reducing Recidivism Strategies: \$90,136,000
- 9 (1) ~~The department~~ *Department of Corrections*
10 *and Rehabilitation* is authorized to make
11 changes to the Reducing Recidivism Strategies
12 supported by this subdivision not sooner
13 than 15 days after notifying the fiscal committees
14 of both houses of the Legislature of any
15 proposed changes.
- 16 (n) Basic Correctional Officer Academy: \$61,105,000
- 17 (o) Records Staffing and Automation: \$4,326,000
- 18 (p) Garrison Johnson v. California, Racial Integration:
19 \$1,214,000
- 20 (q) Coleman v. Schwarzenegger, Court Order Compliance:
21 \$2,267,000
- 22 (r) Comprehensive Health Care Recruitment:
23 \$3,631,000
- 24 (s) Life Prisoner Parole Hearing Staffing: \$5,523,000
- 25 (t) Farrell v. Tilton Healthcare Remedial Plan:
26 \$8,221,000
- 27 (u) Farrell v. Tilton, Consent Decree: \$1,327,000
- 28 (v) Strategic Offender Management System:
29 \$3,611,000
- 30 (w) Consolidated Information Technology Infrastructure
31 project: \$114,058,000
- 32 (x) Teacher Pay Parity: \$13,868,000
- 33 (z) Mandatory Aftercare/Drug Treatment Furlough:
34 \$65,615,000
- 35 (aa) Valdivia Case Records: \$3,344,000
- 36 (bb) Perez v. Tilton, Salary Enhancements: \$1,999,000
- 37 17. Of the amount appropriated in Schedule (8),
38 \$2,389,000 is for administrative support related to
39 projects authorized by Chapter 7 of the Statutes of
40 2007. Any funds not expended for this purpose by

June 30, 2008, shall revert to the General Fund. To the extent that workload performed is directly related to the projects, the Department of Corrections and Rehabilitation shall maximize available project funds by billing those activities to the projects themselves in lieu of the General Fund.

18. The Department of Corrections and Rehabilitation shall reestablish the Program Support Unit under the Chief Deputy Secretary for Adult Operations to review custody staffing proposals.

20. *Notwithstanding any other provision of law, the Director of Finance may transfer up to \$126,555,000 from this item to Item 5225-002-0001 if expenditures within Item 5225-002-0001 exceed the amount appropriated in this Budget Act and there are unspent funds within this item available for transfer.*

21. *Notwithstanding Provision 16, unspent funds are available for transfer pursuant to Provision 20.*

SEC. 4. Item 5225-002-0001 of Section 2.00 of the Budget Act of 2007 is amended to read:

5225-002-0001—For support of Department of Corrections and Rehabilitation.....	2,124,612,000
Schedule:	
(1) 10-Corrections and Rehabilitation Administration.....	7,185,000
(1.5) 25-Adult Corrections and Rehabilitation operations Operations.....	65,506,000
(4) 50-Correctional Health Care Services....	1,000
(4.1) 50.10-Medical Services—Adult.....	1,303,801,000
(4.2) 50.20-Dental Services—Adult.....	103,129,000
(4.3) 50.30-Mental Health Services—Adult.....	302,930,000
(4.4) 50.40-Ancillary Health Care Services—Adult.....	161,120,000
(4.5) 50.50-Dental and Mental Health Services Administration—Adult.....	58,089,000
(5) 97-Unallocated.....	125,000,000
(6) Reimbursements.....	-2,149,000

Provisions:

1. On February 14, 2006, the United States District Court in the case of Plata v. Schwarzenegger (No. C01-1351 THE) suspended the exercise by the Secretary of the Department of Corrections and Rehabilitation of all powers related to the administration, control, management, operation, and financing of the California prison medical health care system. The court ordered that all such powers vested in the Secretary of the Department of Corrections and Rehabilitation were to be performed by a receiver appointed by the court commencing April 17, 2006, until further order of the court. The Director of the Division of Correctional Health Care Services of the Department of Corrections and Rehabilitation is to administer this item to the extent directed by the receiver.
2. Notwithstanding any other provision of law, the amount available for expenditure in Schedule (5) is for the purpose of funding costs for the Department of Corrections and Rehabilitation, including the operations of the Office of the California Prison Receivership, and any other state agency or department that is involved in the provision of health care to California inmates, including the costs of capital projects, resulting either from actions by the receiver or the court in Plata v. Schwarzenegger or cross-jurisdictional issues where the Plata v. Schwarzenegger, Coleman v. Schwarzenegger, and Perez v. Tilton courts agree that a coordinated approach is the most appropriate solution to the programmatic issues that the three courts are facing. The Secretary of the Department of Corrections and Rehabilitation shall be consulted on any project that helps the state comply with both the Coleman and Perez lawsuits. Up to \$25,000,000 of the amount appropriated in Schedule (5) may be used for cross-jurisdictional issues facing the Plata, Coleman, and Perez courts. From any amount available in Schedule (5), the Director of Finance may authorize the transfer of funds from Schedule (5) for the purpose of augmenting the amount available for expenditure in any other

1 schedule in this item, or any other appropriation in
2 this section to a department or agency that is involved
3 in the provision of health care to California inmates.
4 The Director of Finance shall notify the Chairperson
5 of the Joint Legislative Budget Committee and the
6 chairpersons of the fiscal committees in each house
7 of the Legislature no later than 10 days after the effective
8 date of the transfer. The notification to the Legislature
9 shall include information regarding the purpose
10 of the expenditures and the expected outcome of those
11 expenditures.

- 12 3. Notwithstanding any other provision of law, the Department
13 of Corrections and Rehabilitation is not required to competitively bid for health services contracts
14 in cases where contracting experience or history indicates that only one qualified bid will be received.
- 15 4. Notwithstanding Section 13324 of the Government
16 Code or Section 32.00 of this act, no state employee shall be held personally liable for any expenditure or
17 the creation of any indebtedness in excess of the amounts appropriated therefor as a result of complying
18 with the directions of the receiver or orders of the United States District ~~court~~ *Court* in Plata v.
19 Schwarzenegger.
- 20 5. The Department of Finance shall immediately notify
21 the Joint Legislative Budget Committee and the fiscal committees in each house of the Legislature when
22 expenditures pursuant to Provision 2 are occurring at a rate that would exhaust the level of funding in
23 Schedule (5) prior to the end of the fiscal year.
- 24 6. Any funds in Schedule (5) that are not expended by
25 June 30, 2008, shall revert to the General Fund.
- 26 8. The amounts appropriated in Schedules (4.1) and (4.4)
27 are available for expenditure by the receiver appointed by the Plata v. Schwarzenegger court to carry out its
28 mission to deliver constitutionally adequate medical care to inmates.
- 29 9. The amounts appropriated in Schedules (4.2), (4.3)
30 and (4.5) are available for expenditure by the Department
31 of Corrections and Rehabilitation.

ment of Corrections and Rehabilitation to provide mental health and dental services only.

10. *Notwithstanding any other provision of law, the Director of Finance may transfer up to \$126,555,000 from Item 5225-001-0001 to this item if expenditures within this item exceed the amount appropriated in this Budget Act and there are unspent funds within Item 5225-001-0001 available for transfer.*

11. *Notwithstanding Provision 22, unspent funds are available for transfer pursuant to Provision 10.*

22. Of the funds appropriated in this item, \$177,344,000 is available for expenditure only for the purposes identified below. Any unexpended funds shall revert to the General Fund.

- (a) Coleman v. Schwarzenegger, Salary Enhancements..... 37,461,000
- (b) Perez v. Tilton, Comprehensive Inmate Dental Services Program..... 14,040,000
- (c) Perez v. Tilton, Salary Enhancements..... 54,742,000
- (d) Plata v. Schwarzenegger, Pay Enhancements..... 29,630,000
- (e) Coleman v. Schwarzenegger, Reception Center Enhanced Outpatient Program..... 2,211,000
- (f) Implementation of Revised Program Guide for Mental Health Services Delivery System (Ch. 511, Stats. 2006)..... 31,540,000
- (h) California Medical Facility Mental Health Crisis Bed Unit Staffing..... 7,720,000

SEC. 5. The sum of five hundred ten million one hundred twenty-five thousand dollars (\$510,125,000) is hereby appropriated from the General Fund for expenditure for the 2008–09 fiscal year in augmentation of Item 9840-001-0001 of Section 2.00 of the Budget Act of 2008 (Chapters 268 and 269 of the Statutes of 2008). Notwithstanding Provision 7 of Item 9840-001-0001, these funds shall be allocated by the Controller in accordance with the following schedule:

1 (a) Thirteen million eight hundred sixty-seven thousand dollars
2 (\$13,867,000) to Item 5225-001-0001, scheduled as follows:

3 (1) Nine million seven thousand dollars (\$9,007,000) to Schedule
4 (4) 20-Juvenile Operations.

5 (2) Four million eight hundred sixty thousand dollars
6 (\$4,860,000) to Schedule (8) 25-Adult Corrections and
7 Rehabilitation Operations.

8 (b) Four hundred ninety-six million two hundred fifty-eight
9 thousand dollars (\$496,258,000) to Item 5225-002-0001, scheduled
10 as follows:

11 (1) Four hundred ninety-six million seventy-three thousand
12 dollars (\$496,073,000) to Schedule (3) 50.10-Medical
13 Services—Adult.

14 (2) One hundred eighty-five thousand dollars (\$185,000) to
15 Schedule (4) 50.20-Dental Services—Adult.

16 Of the amount appropriated in this section to Schedule (3)
17 50.10-Medical Services—Adult of Item 5225-002-0001, four
18 hundred eighty-six million eight hundred thousand dollars
19 (\$486,800,000) is available for expenditure only for contract
20 medical services.

21 SEC. 6. Any unencumbered balance, as of June 30, 2009, of
22 the funds appropriated within any of the items identified in Section
23 5 shall revert to the General Fund.

24 SEC. 7. California Prison Health Care Services shall provide
25 to the Joint Legislative Budget Committee and the fiscal committees
26 of both houses of the Legislature detailed written reports on actions
27 taken and planned to reduce and better manage medical service
28 contract costs in the 2009–10 fiscal year and future fiscal years.
29 The reports shall describe the cost containment measures to be
30 implemented, provide a schedule for implementing the measures
31 across the prison health care system, identify the projected cost
32 containment to be achieved as a result of the measures, and provide
33 any available data on the effectiveness of the measures in reducing
34 cost of medical services contracts. The first report shall be
35 submitted no later than November 1, 2009. An updated report shall
36 be submitted no later than April 1, 2010.

37 SEC. 8. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
39 the meaning of Article IV of the Constitution and shall go into
40 immediate effect. The facts constituting the necessity are:

- 1 *This act makes appropriations for the support of the government*
- 2 *of the State of California for the 2007–08 and 2008–09 fiscal years.*
- 3 *It is therefore necessary that this act take effect immediately.*

O